

ENTERED

March 09, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

RAFAEL RUIZ

§

§

§

VS.

CIVIL ACTION NO. 7:14-CV-921

§

STEVEN A. MERCADO, *et al*,

§

§

§

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Plaintiff's motion for leave to proceed in forma pauperis ("IFP) on appeal from the Court's dismissal of his claims pursuant to 42 U.S.C § 1983. On September 28, 2016, the Magistrate Court issued the Report and Recommendation, recommending that Plaintiff's motion for leave to proceed IFP on appeal be denied and the Court certify that the appeal is not taken in good faith. The time for filing objections has passed, and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Plaintiff's motion for leave to proceed IFP on appeal (Dkt. Entry No. 26) **DENIED**, and the court further **CERTIFIES** that the appeal is not taken in good faith.

¹As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Douglas v. United Services Auto. Ass'n, 79 F.3d 1415, 1420 (5th Cir. 1996)(quoting Fed. R. Civ. P.72(b) advisory committee's note (1983)) *superceded by statute on other grounds by 28 U.S.C. § 636(b)(1), as stated in ACS Recovery Servs., Inc v. Griffin, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. April 2, 2012).*

SO ORDERED this 8th day of March, 2017, at McAllen, Texas.


Randy Crane
Randy Crane
United States District Judge